

**Before the  
Federal Communications Commission  
Washington, DC 20554**

In the Matter of	)	
	)	
Request for Waiver by	)	
	)	
Springdale Public Schools	)	File No. SLD-195867
Springdale, Arkansas	)	
	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

**ORDER**

**Adopted: February 25, 2002**

**Released: February 26, 2002**

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Waiver Request filed by Springdale Public School (Springdale), Springdale, Arkansas.<sup>1</sup> Springdale seeks a waiver of the Commission's rules governing discounts for services under the schools and libraries universal service support mechanism.<sup>2</sup> For the reasons set forth below, we deny Springdale's Waiver Request.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.<sup>3</sup> In order to receive discounts on eligible services, the Commission's rules require that the applicant submit to the

<sup>1</sup> Letter from Jim Rollins, Springdale Public Schools, to Federal Communications Commission, filed May 14, 2001 (Waiver Request). Springdale characterizes its request as a Request for Review, in accordance with the Administrator's treatment of it as such. *See* Letter from Schools and Libraries Division, Universal Service Administrative Company, to Jim Rollins/Peggy Hill, Springdale Public Schools, dated April 16, 2001 (Administrator's Letter on Appeal). However, we deem Springdale's request to be a waiver request, because it seeks a waiver of our rules governing the filing window, rather than contesting an allegedly erroneous decision by the Administrator. *Compare* 47 C.F.R. § 54.719 (concerning requests for review) *with* 47 C.F.R. 1.3 (governing waiver requests).

<sup>2</sup> *See* Waiver Request. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. *See* 47 C.F.R. § 54.719(c).

<sup>3</sup> 47 C.F.R. §§ 54.502, 54.503.

Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts.<sup>3</sup> The Administrator must post the FCC Form 470 on its website, and the applicant is required to wait 28 days before making a commitment with a selected service provider.<sup>5</sup> Once the applicant has complied with the Commission's competitive bidding requirements and entered into an agreement for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.<sup>6</sup>

3. The Commission's rules allow the Administrator to implement an internal filing period ("filing window") for the FCC Form 471 applications that treats all schools and libraries filing within that period as if their applications were simultaneously received.<sup>7</sup> Applications that are received outside this filing window are subject to separate funding priorities under the Commission's rules.<sup>8</sup> It is to all applicants' advantage, therefore, to ensure that the Administrator receives their applications prior to the deadline.

4. Springdale requests a waiver of the Funding Year 3 application window for FCC Forms 471, which closed on January 19, 2000, at 11:59 p.m. Eastern Standard Time.<sup>9</sup> Springdale filed its FCC Form 471 on January 26, 2000, one week after the filing window closed.<sup>10</sup> Springdale was denied discounts for Funding Year 3 because of its late-filed application, and on January 22, 2001, Springdale appealed that decision to SLD.<sup>11</sup> By letter dated April 16, 2001, SLD denied Springdale's appeal because its FCC Form 471 was received outside the filing window.<sup>12</sup> Springdale then filed the instant Waiver Request with the Commission.<sup>13</sup>

5. Springdale seeks a waiver of the filing window on the grounds that it recently changed personnel responsible for applying for universal service support mechanism discounts, and that the individual it previously employed failed to properly file a timely FCC Form 471.<sup>14</sup> Springdale

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<sup>4</sup> 47 C.F.R. § 54.504(b)(1), (b)(3).

<sup>5</sup> 47 C.F.R. §§ 54.504(b)(3), (4); § 54.511.

<sup>6</sup> 47 C.F.R. § 54.504(c).

<sup>7</sup> 47 C.F.R. § 54.507(c).

<sup>8</sup> 47 C.F.R. § 54.507(g).

<sup>9</sup> Waiver Request; SLD web site, What's New (December 6, 1999) <<http://www.sl.universalservice.org/whatsnew/121999.asp>>.

<sup>10</sup> See FCC Form 471, Springdale Public Schools, filed January 26, 2000.

<sup>11</sup> See Letter from Jim Rollins, Springdale Public Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed January 22, 2001.

<sup>12</sup> See Administrator's Decision on Appeal.

<sup>13</sup> See Waiver Request.

<sup>14</sup> See *id.*

further supports its request for a waiver on the grounds that its contracts with service providers are on-going contracts, and therefore it need not file an FCC Form 471 for Funding Year 3.<sup>15</sup>

6. We conclude that Springdale has not demonstrated a sufficient basis for waiving the Commission's rules. Waiver is appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule.<sup>16</sup> In requesting funds from the schools and libraries universal service support mechanism, the applicant bears the burden of getting its forms and other information to SLD for processing within the established deadline in order to be considered with other in-window applicants.

7. The particular facts of this case do not rise to the level of special circumstances required for a deviation from the general rule. All applicants must file FCC Form 471 applications for each year in which discounts are sought.<sup>17</sup> The rules make no provision for applicants with on-going contracts, or any other applicants for discounts, to avoid filing FCC Forms 471 apprising SLD of the applicant's request for discounts for that year.<sup>18</sup> In light of the thousands of applications that SLD reviews and processes each year, it is administratively necessary to place on the applicant the responsibility of complying with all relevant rules and procedures.<sup>19</sup> In order for the program to work efficiently, the applicant must assume responsibility for timely submission of its application materials if it wishes to be considered within the window, and must assume responsibility for the actions of those to whom it delegates authority for program filings. Here, Springdale fails to present good cause as to why it could not timely file its application.

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<sup>15</sup> *See id.*

<sup>16</sup> *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>17</sup> *See* 47 C.F.R. § 504(c).

<sup>18</sup> *See id.*

<sup>19</sup> *Request for Review by Anderson School Staatsburg, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association*, File No. SLD-133664, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 25610 (Com. Car. Bur. 2000), para. 8 ("In light of the thousands of applications that SLD reviews and processes each funding year, it is administratively necessary to place on the applicant the responsibility of understanding all relevant program rules and procedures.").

8. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, 1.3, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 1.3, and 54.722(a), that the Waiver Request filed by Springdale Public Schools, Springdale, Arkansas, on May 14, 2001 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Mark G. Seifert  
Deputy Chief, Accounting Policy Division  
Common Carrier Bureau